

For instance, Applicant pointed out, among other things, that none of the applied documents describe, imply, suggest or even hint at providing a plurality of different brand name product representations on a sign, as claimed. Also, the arguments starting on page 12 of Applicant's response point out that the primary reference to Ramey is directed to an indexing system in which every single piece of moulding in an aisle is identified, and that modifying the described Ramey system as suggested by the Office would completely frustrate the principle operation of the Ramey system.

Furthermore, on page 18 of the September 21, 2007, Amendment, Applicant requested clarification regarding the prior filed Declarations Under 37 C.F.R. § 1.132 by Paul Enfield and David Weber. In particular, the evidence obtained during the case study described by Mr. Enfield in his Declaration, and on page 40, line 19 to page 43, and Figure 16 of the original application, is believed to show clear evidence of unexpected results, which are evidence of nonobviousness. See, MPEP § 716.02(a). However, these results and other evidence presented in these declarations were not addressed in the most recent final Office Action. Applicant again requests clarification and full consideration of all submitted evidence.

Additionally submitted herewith is an unexecuted Second Declaration of Paul Enfield Under 37 C.F.R § 1.132, which further supports patentability for the claimed subject matter by explaining the unexpected results achieved by the invention and how the invention fulfills a long-felt, but unmet need in the art. An executed version of this second declaration will shortly follow.

Turning now to the present rejection of claim 17, the Office applies the same Ramey, Begum and Porter documents, which were applied in the previous rejection. These documents are discussed at length in Applicant's Response dated September 11, 2006, and the Amendment dated September 21, 2007. The Office's attention is respectfully directed to those remarks. The final Office Action newly takes the following Official Notice:

[I]t is notoriously well known in the art of grocery retail for grocery items to include brand name products which comprise one or more of frozen food products, refrigerated food products, food products which are canned, bottled or packaged food products and drug store products and where these brand names and packaging comprise trademarks which [sic] are registered in the U.S. Patent and Trademark Office to sell a wide array of foods and drugs and to provide companies with brand name protection. (See, page 8, lines 16-22.)

Also, the Office emphasizes Figures 6 and 7 of the primary Ramey patent, which were not mentioned in the previously issued Office Action. It is respectfully submitted, however, that neither the newly cited figures of Ramey nor the Official Notice taken render the claimed subject matter obvious, for the following reasons:

The Ramey embodiment of a “display system A” shown in Figures 6 and 7 is described starting at column 8, line 7. It includes one or more “room scene signs G” that are provided along a “display system A.” The room scenes 72 and 74 depicted on the signs G include “color indicators 80” that are described in a legend 78, which also is included on the sign G. The color indicators 80 are provided on moulding depicted in the room scenes and the legend includes a correlation between the colored indicators and a description of a style of moulding, such as “Window & Door” – Red, “Corner & Ceiling” – Blue etc. In lines 60-63, Ramey states, “Using the group signs D and the article locators E a consumer can readily determine the location on the support member B of the particular moulding he or she wishes to purchase.”

Thus, like the embodiments of Ramey’s Figures 1-5, the display system A depicted in Figures 6 and 7 does not suggest anything with regard to claimed features related to providing a plurality of different brand name representations on a display sign. Rather, like the embodiments of Figures 1-5, a customer identifies a particular molding and proceeds to a color-coded sign having the same color as the group including the identified molding. Thus, the basic problem addressed by Ramey’s system A of Figures 6 and 7 is essentially the same as pointed out in the paragraph spanning pages 11 to 12 of the September 21, 2007, response, which is to provide an indexing type system where this person can find a specific item rather easily without having to consult the sales personnel on the floor. The indexing system of Ramey provides color-coded items that link a general type designation description on one sign (e.g., Window & Door) to another description having more detailed listing of mouldings (e.g., ranch casing, colonial casing etc.).

With respect to the Official Notice taken, Applicant does not dispute that a grocery retail store would have included one or more of frozen food products, refrigerated food products, food products with are canned, bottled or packaged food products and drug store products and where these brand names and packaging comprise trademarks that are registered in the U.S. Patent and Trademark Office. However, the mere fact that a retail store would have a large number of brands says nothing regarding the claimed features of a display sign

provided with a plurality of different brand name representations in at least one group in proximity or overlapping relationship to one another, with these brand name representations being representative of a greater number of other products that are in the aisle associated with the display sign so as to be present along a substantial length of the aisle.

The Porter document likewise does not discuss or suggest anything whatsoever about display signs, much less providing on a display sign a plurality of different brand name representations in at least one group in proximity or overlapping relationship to one another. Thus, Porter and the Official Notice are too general and do not mention anything whatsoever regarding signage, much less use of brand name representations on signage associated with a store aisle. Even when considering Porter and the Official Notice in combination with Ramey, nothing emerges that would suggest modifying Ramey to arrive at the claimed subject matter.

The Begum patent fails to provide what is missing in Ramey, Porter and/or the Official Notice. Begum describes a shelf-mounted display sign with a mechanical shelf clip connected to a vertical battery canister that powers one or more lights to attract a shopper's attention and preferably includes circuitry for a preferred embodiment as a trigger unit for a shopping cart display (see, column 2, lines 12-27). Begum also shows a single signboard on the display sign advertising a particular juice product, with the light going on and off. The inventive part of this patent is the particular way they mounted this on a shelf, various hardware, electrical connections, etc.

Although the Begum patent shows a company name in Figure 1, which may or may not be a "brand" (i.e., "ACME FLA Orange Juice"), Begum fails to reasonably suggest selecting "ACME FLA Orange Juice" as the sign display for the given product group based in its brand name recognition. Furthermore, Begum does not mention or even hint at a display sign provided with *a plurality of different brand name representations in at least one group* in proximity or overlapping relationship to one another. Additionally, Begum does not describe, infer or imply the claimed features of brand name representations representative of a greater number of other products, which are in the aisle associated with the display sign so as to be present along a substantial length of the aisle.

At page 8 of the Action, the Examiner alleges that it would have been obvious to one of ordinary skill in the art of retail to modify the signs and store facility of Ramey to sell grocery products with brand names, brand appearance, brand graphic representation and

brand packaging as taught by Begum in order to sell grocery items that consumers recognize and favor. However, there is simply no suggestion whatsoever in the Ramey and Begum documents that would have led one of ordinary skill in the art to place a plurality of different brand name product representations of products on each of a plurality of display signs, as recited in independent claim 17, even if Begum is considered along with Porter and the Office's Official Notice. Rather, Ramey and Begum appear to *teach away* from the modifications suggested by the Office, and Porter and the Official Notice taken do nothing to remedy this deficiency.

As pointed out on pages 17 and 18 of Applicant's reply dated September 21, 2007, it would appear counter-intuitive and against common sense to include a plurality of different brand representations on the type of sign described in Begum, to infer the locations of products associated with the plurality the brand representations. That is, why would one of ordinary skill in the art be led to provide more than one brand representation on a single rail sign to infer respective locations of products associated with the brand name representation with using small sign at a specific location along the display's price rail? The answer is that they would not. According to Begum, the display sign 10 is of relatively small size to avoid contact with shoppers perusing an aisle (see Begum, the paragraph spanning columns 1 to 2). It would appear unreasonable to assume that one of ordinary skill in the art would consider including a plurality of different brand name representations of products on such a small display sign attached to a display price rail. Instead, it would appear one of ordinary skill in the art practicing common sense would deploy a plurality of such rail signs - one for each product - and that each such sign would correspond to one product at a location proximal to that product.

Thus, the suggested modification of Ramey to include the claimed features including, *inter alia*, a plurality of different brand name representations of products on each of a plurality of signs, is neither described, suggested or even hinted at in the in either of Begum, Porter, the Official Notice taken, or in any combination of thereof with Ramey. Nor would such modifications been reasonably considered within the common sense of one ordinary skill in the art. Accordingly, the rejection is believed based largely in hindsight, which impermissibly imports only what the Applicant has taught to bridge the gap of claimed features missing from the applied documents.

For all the foregoing reasons, and reasons set forth in the September 21, 2007, Amendment, the September 11, 2006, Response, and the Declarations of Paul Enfield and David Weber filed pursuant to 37 C.F.R. § 1.132, Applicant requests withdrawal of the pending rejection of claims 17 to 27 under Section 103(a) and prompt allowance of the present application.

Respectfully submitted,

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